

## Questions and Answers on New Electronic Filing Requirement for Tax-Exempt Organizations

### Which tax-exempt organizations are required to file electronically?

The IRS and Treasury Department implemented new regulations in January 2005, requiring the following organizations that file at least 250 returns during the calendar year ending with or within the organization's taxable year to file their annual returns electronically:

Entities	Form(s)	Applicability Date
Exempt organizations with <b>assets of \$100 million or more</b> that are required to file information returns under section 6033	Form 990, "Return of Organization Exempt From Income Tax"	Taxable years ending on or after <b>Dec. 31, 2005</b>
Exempt organizations with <b>assets of \$10 million or more</b> that are required to file information returns under section 6033	Form 990, "Return of Organization Exempt From Income Tax"	Taxable years ending on or after <b>Dec. 31, 2006</b>
<b>Private foundations</b> that are required to file information returns under section 6033	Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation"	Taxable years ending on or after <b>Dec. 31, 2006</b>

### How do I determine whether I file 250 returns?

All original returns filed by a tax-exempt organization and other members of the organization's controlled group during the calendar year are counted, including income tax returns, information returns, excise tax returns, and employment tax returns. Corrected or amended returns are not counted.

For example, if your organization has 245 employees, you must file your Form 990 or 990-PF electronically. This is because each individual Form W-2 as well as each of your quarterly Forms 941 is considered a separate return.

### Why did IRS and Treasury implement these new regulations?

The new regulations are part of the IRS strategic plan to accomplish the goal established by Congress in Section 2001(a) of the IRS Restructuring and Reform Act of 1998. This goal says that the policy of Congress is to promote paperless filing, with a long-range goal that at least 80 percent of all Federal and information returns will be filed in electronic form by 2007.

Implementation of this regulation is also consistent with an Office of Treasury Inspector General for Tax Administration (TIGTA) recommendation that the IRS require large corporations to file electronically. A copy of this report can be found at <http://www.ustreas.gov/tigta/auditreports/2003reports/200330123fr.html>.

Overall, increased electronic filing of returns has been shown to improve customer satisfaction and confidence in the filing process, and it may be more cost effective for affected entities. However, large corporate and tax-exempt filers have consistently advised the IRS that they will not consider e-filing unless they are required to do so.

### Why do the regulations set the electronic filing threshold at \$100 million in assets?

Exempt organizations of this size generally have sophisticated accounting and financial systems and therefore the necessary resources to comply with electronic filing requirements. Electronic filing is a natural extension of the electronic environment in which they currently operate.

### What portion of the tax exempt community is covered by this requirement?

The tax-exempt sector holds approximately \$2.5 trillion in assets. We estimate that about 36% of that asset amount will be covered by the electronic filing requirement in the first year. In the second year, approximately 41% of the total tax-exempt sector assets will be covered by the requirement.

### Will I be penalized if I am required to file electronically but do not do so?

Yes. If you are required to file electronically but do not, the organization is deemed to have failed to file the return. This is true even if a paper return is submitted. For organizations with gross receipts exceeding \$1 million, the penalty for non-filing is \$100 for each day the failure continues, up to a maximum of \$50,000 per return. The penalty begins on the due date of the return.



In addition, the person responsible for non-filing will be charged a penalty of \$10 a day up to a maximum of \$5,000, unless he or she shows that not complying was due to reasonable cause.

**Can I get a waiver from this requirement?**

The new regulations provide that the IRS may grant hardship waivers from the requirement to file electronically. However, waivers from this requirement will be granted only in extraordinary circumstances. The IRS will issue published guidance that will set forth the procedures for requesting a hardship waiver after receiving public comments and conducting a public hearing.

**Do I have sufficient time to implement the new system?**

If you are among the 80% of tax-exempt organizations that use a tax professional to prepare your return, you will see very little difference in how your return is prepared. It will be your tax professional's responsibility to make the necessary changes to file electronically. Thus, you should discuss electronic filing with your tax professional soon. If you prepare your return yourself, check with your software company immediately to ensure that they will be prepared to meet your electronic filing requirements.

**Do software vendors have sufficient time to develop new systems?**

Most software companies that develop tax preparation software worked closely with IRS to design and develop the new electronic filing system. Many of these companies made the necessary changes to provide their clients with the option to file their tax year 2004 returns electronically. Those that have not made the necessary changes will have sufficient time to do so as 2005 returns are not due until 2006.

**What has the IRS done to avoid problems like those experienced during the implementation of electronic filing for Form 1065?**

Unlike implementation of electronic filing for Forms 1065, the IRS implemented e-filing for tax-exempt organizations and large corporations *after* four years of development and testing. During these four years, the IRS worked closely with tax professionals, software companies and other stakeholders to ensure the system addressed the needs of various stakeholders. More importantly, the IRS already implemented it on February 23, 2004 and had a successful "test" year.

**Who can help me if I have a problem with my electronically filed Form 990?**

If you are a nonprofit organization using a practitioner to file your return, work with your practitioner to resolve problems or questions about the information on the return. There is an E-Help Desk in the Ogden Service Center (1-800-255-0654) that will work with registered practitioners and transmitters to help resolve electronic filing problems. You or your practitioner may also work with the technical support function of the software developer who produced the software being used to prepare and transmit your return.

In addition, visit [www.irs.gov](http://www.irs.gov), click on the *e-file* logo in the lower right hand corner and then click on *e-file* for Charities and Nonprofits. This site will provide you or your practitioner with the most current information about registration procedures as well as return preparation packages that offer electronic submission of Forms 990, 990-PF, 990EZ, the extension Form 8868, and Form 1120POL.

For general questions regarding exempt organizations, you can call (toll-free) 1-877-829-5500.

**May I e-file even though the regulation does not apply me?**

Electronic filing is available to all exempt organizations and the IRS encourages all to file electronically regardless of the requirements set forth in the regulations.



## **Questions and Answers on Modernized e-File in General, Relating to Electronic Filing for Exempt Organizations**

### **What is Modernized e-File (MeF) and how is it different from other IRS e-file systems?**

MeF is a modernized web-based system that allows electronic filing of returns through the Internet using the widely accepted XML format, a standardized way of identifying, storing and transmitting data. Older IRS e-file systems use a telephone connection to transmit e-filed returns using an IRS proprietary data transmission format. Exempt organizations e-filing is done through MeF.

### **Which exempt organization returns can I e-file?**

The IRS implemented electronic filing for Forms 990 (including Schedules A and B), 990-EZ, 1120-POL, and the extension Form 8868 in February 2004.

Electronic filing for Form 990PF will be available in 2005 for 2004 tax year returns.

### **Why should I e-file?**

There are a number of benefits to electronic filing – for both exempt organizations and the IRS. Electronic filing:

- Reduces the normal processing time associated with paper returns because there is minimal manual processing, with no paperwork delays.
- Increases processing speed, which results in faster settling of accounts and better customer service.
- Reduces errors and increases security by reducing erroneous or duplicate returns. This benefits taxpayers and makes the processing of returns more efficient. For example, the error rate for paper returns is about 20 percent (35 percent for Form 990), half of which is attributable to the IRS keypunch errors and half to taxpayer errors. Because electronically filed returns are prepared using computer software programs with built-in accuracy checks, undergo pre-screening by the IRS, and experience no key punch errors, electronic returns have an error rate of less than one percent.
- Improves customer satisfaction and confidence in the filing process, and may be more cost effective for affected entities.

### **How do I submit the attachments, explanations, etc. required in the Form 990 instructions?**

In all situations where you are asked to provide an explanation or description, the software will prompt you for the necessary information and automatically creates the proper “attachment.” We refer to this as a “structured” attachment. In all cases, the electronic Form 990 provides more space than the paper return for required explanations and descriptions. In addition, the electronic Form 990 includes up to three General Explanation “Attachments”. Use of these is optional, but each provides approximately three pages filers can use to provide any additional explanations or descriptions as desired.

### **How do I “sign” the return?**

You may use a personal identification number (PIN) to sign the return. In addition, the IRS will accept a scanned Form 8453 signature document, which must be in PDF format. This option is available to filers who elect not to use a PIN to sign the return.

### **How do I register to e-file?**

Taxpayers who use a “registered” tax professional to prepare their electronic return will not be required to register for e-file. Taxpayers who plan to prepare and/or transmit their own electronic return will need to complete a registration and application process. These taxpayers will use an on-line process at [irs.gov](http://irs.gov) for completing the registration and application. IRS will provide specific instructions for this process at a later date.

### **Do I have to use a third party to e-file my return?**

IRS will accept returns from either a third party or directly from the taxpayer. Organizations that want to file directly with IRS should first check with their software company to ensure it supports the capability that allows them to transmit directly to IRS. If direct transmission is included in the software, responsible individuals must complete the registration and application process.